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Docket: 04196



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Erik HESTVIK
Serial No.: 10/512,085
Filed: November 8, 2004
For: BATON HOLDER

MAIL STOP AMENDMENT
Art Unit: 3727
Examiner: Tri M. MAI

RESPONSE TO ELECTION REQUIREMENT AND AMENDMENT

U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Responsive to the Election Requirement made under 35 U.S.C. §§121 on November 14, 2006, in the above-identified application, the period for response having been extended for one (1) month from December 14, 2006, to January 14, 2007, by a Petition for Extension of Time incorporated herein, please reconsider the application in view of the following amendments and remarks.

A **Response to the Restriction Requirement** is found on page 2 of this paper.

Amendments to the Claims are reflected in the listing of claims that begins on page 4 of this paper.

Remarks are found on page 7 of this paper.

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RESPONSE TO RESTRICTION REQUIREMENT

The Office has required the Applicant to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. In this regard, the Applicant has been required to elect one species from each of the following two sets:

Set 1:

Group 1: The embodiment being used with a belt;

Group 2: The embodiment in the proposed Fig. 6 being used with a leg strap; and

Group 3: The embodiment in Fig. 7 being used with a vest.

and

Set 2:

Group 1: The embodiment having one holder shown in Fig. 1 (the strap being made from different material); and

Group 2: The embodiment having one holder shown in Fig. 8 (the strap being made from the same material as the holder).

Applicant hereby elects Group 1 from Set 1, and Group 2 from Set 2, with traverse.

Applicant respectfully traverses the election requirement on the grounds that the Office has not shown even a *prima facie* case that a serious burden would be placed on the Examiner if all of the embodiments of Sets 1 and 2 were to be

examined together. Accordingly, since it has not been shown by the Office that a serious burden would be placed on the Examiner if all of the embodiments of Sets 1 and 2 were to be examined together, Applicant submits that restriction is improper.

That being said, Applicant further believes that the issue regarding election of species set forth by the Office is now moot in the light of the amendments to the claims which follow.